

IMPORTANT FACTS ABOUT THE GRIEVANCE PROCEDURE

The state grievance procedure for teachers and other non-supervisory personnel is written by the State Department of Education in conformity with state laws. In dealing with any grievance procedure, invariably there are certain questions raised. The purpose of this Fact Sheet is to address some of these questions.

WHAT IS GRIEVABLE? The definition of grievance is — A complaint or dispute by a teacher relating to his or her employment including, but not necessarily limited to:

A. The application or interpretation of:

1. Personnel policies
2. Procedures
3. Rules and Regulations
4. Ordinances
5. Statutes

B. Acts or reprisal as a result of utilization of this grievance procedure.

C. Complaints of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin, or sex.

The grievance procedure specifically excludes the following (While these management rights are reserved to the school board, failure to apply where applicable, the rules, regulations, policies as written or established by the school board is grievable.)

- A. Establishment and revision of wages or salaries, position classification or general benefit.
- B. Suspension of a teacher.
- C. Non-renewal of a probationary teacher.
- D. The establishment or contents of ordinances, statutes or personnel policies, written procedures, rules and regulations.
- E. Failure to promote except where a teacher can show established promotional policies or procedures were not followed or applied fairly.
- F. Discharge, lay-off or suspension from duties because of 1) decrease in enrollment; 2) decrease in enrollment of a particular subject; 3) abolition of a particular subject; 4) insufficient funding.
- G. Hiring, transfer, assignment and retention of teachers within the school division.
- H. Suspension from duties in emergencies.
- I. The methods, means and personnel by which the school division's operations are to be carried on.

WHO MAY GRIEVE? The State Department of Education procedure limits the right to file grievances to non-supervisory personnel such as teachers and other school employees below the management level of principals.

NOTE: *This appears to be in conflict with the provisions of state code which states that the grievance procedure shall apply to all regularly certified school personnel.*

DISMISSALS

Part III of the procedure defines as being grievable, "A complaint or dispute involving a teacher relative to his or her employment involving dismissal or placing on probation."

This section of the procedure applies only to "All regularly certified professional public school personnel employed under a written contract as provided by Section 22-217.2 of the Code of Virginia by any school division as teacher or supervisor of classroom teachers but excluding all superintendents."

WHAT ARE THE BASIC STEPS IN PROCESSING A GRIEVANCE? (Note: Dismissals start at step 4.)

- 1. Informal** — Teacher and his or her immediate supervisor meet informally to discuss the grievance. The grievance is not reduced to writing. This must occur within 15 working days of the event giving rise to the grievance or 15 work days following the time when the employee knew of the occurrence giving cause to the grievance. **The grievance is put in writing after the informal meeting, but before the expiration of the first 15 working days.**
- 2. Principal** — The grievant meets with the principal (or designee) and the principal/designee must respond in writing within 5 working days.
- 3. Superintendent** — The grievant may appeal the grievance within 5 working days to the division superintendent who must respond in writing.
- 4. Fact-Finding Panel** — The grievant may appeal the grievance to a fact-finding panel who must render a fact-finding report with recommendations to the school board. *The teacher may omit Step 4 and proceed to Step 5; however, the school board has the right to refer the grievance to Step 4.*
- 5. Decision by the School Board** — The school board shall render a decision after considering the fact-finding panel's report. The school board may initiate a further hearing on the grievance.

WHAT ABOUT EXPENSES TO THE GRIEVANT?

The procedure requires the teacher to bear his or her own expenses. The expenses of the panel hearing, if one is held, will be borne one-half by the school board and one-half by the teacher.

WHO DETERMINES WHETHER OR NOT A COMPLAINT IS GRIEVABLE?

The initial decision rests with the school board, however, this procedure allows an appeal to the local circuit court.

WHAT ABOUT TIME LIMITATIONS?

There are specific time limitations in the procedure. Extreme care and caution must be exercised in order to insure that adherence to these time limits is followed.

REMEMBER...You are not alone! If you feel you have a grievance, call the EAN office immediately (622-9090).